**THE HONOURABLE SRI JUSTICE B.SUDERSHAN REDDY**

**AND**

**THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION NO.15398 OF 2004**

**DATED 2.8.2005**

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**BETWEEN**

**MRF LIMITED,**

**124, GREAMS ROAD**

**CHENNAI – 600 006**

**… PETITIONER**

**AND**

**1. THE UNION OF INDIA**

**MINISTRY OF FINANCE & COMPANY AFFAIRS,**

**GOVERNMENT OF INDIA,**

**NORTH BLOCK**

**NEW DELHI – 110001 AND OTHERS .. RESPONDENTS**

**THE HONOURABLE SRI JUSTICE B.SUDERSHAN REDDY**

**AND**

**THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN**

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**WRIT PETITION NO.15398 OF 2004**

**ORDER:** (Per Sri BRSR.J)

The petitioner invokes the jurisdiction of this Court under Article 226 of the Constitution of India challenging the show cause notice dated 17.9.2003 issued by the 4th respondent herein requiring the petitioner to produce all the evidence and

state in their written reply to the show cause whether they wish tobe heard in person before the case is adjudicated. The petitioner was called upon to show cause as to why

i. an amount of Rs.250168412/- ( Rupees Twenty Five Crores One lakh Sixty Eight Thousand Four Hundred and Twelve only) wrongly taken credit on 28.2.2003 should not be recovered from them in terms of Rule 12 of Central Credit Rules 2002 read with Section 11-A of Central Excise Act, 1944.'

ii. Interest should not be recovered from them in terms of Rule 12 of Cenvat Credit Rules, 2002 read with Section 11AB of the Central Excise Act, 1944 on the above mentioned amount

iii. Penalty should not be imposed onthem for taking credit on 28.2.2003 under Rule 13 of Cenvat Credit Rules, 2002 for contravention of the provisions of rules 4 and 7 ibid.

It is now brought to our notice by way of an additional affidavit that the respondents required the petitioner herein to pay back the amounts mentioned in the order dated 14.6.2005 in 36 equal monthly instalments, however, with an observation:

> "the assesses are informed that they are at liberty to make payment on their own towards the amount of credit or as the case may be, the amount of interest, in excess of the amount required to be paid unto a particular month."

In terms of the undertaking already furnished by the petitioner, the amounts determined in the order dated 14.6.2005 were undertaken to be paid by the petitioner in 12 equal monthly instalments. It is further stated that 8 instalments have already been repaid by 30.6.2005 and the 1st instalment of the interest was also paid on 4.7.2005. It is stated in the affidavit that the balance 4 instalments would be repaid together with interest as computed in the order dated 14.6.2005.

We have perused the order dated 14.6.2005 which is made available for our perusal. It is self-explanatory.

In view of this affidavit in terms of the order passed by the authorities and in view of

the undertaken given by the petitioner to repay the amounts in 12 equal instalments, no further directions as such are required to be issued in this writ petition. Obviously, the respondents cannot proceed against the petitioner pursuant to the impugned show cause notice, however, subject to the condition of the petitioner paying the rest of the instalments in terms of their own undertaking. There shall be an order accordingly.

The writ petition is accordingly disposed of. No costs.

(B.SUDERSHAN REDDY,J)

Dt: 02..08..2005

(RAMESH RANGANATHAN,J)

msv